

BEFORE SHRI HANS RAJ GUPTA, PRESIDING OFFICER, LABOUR
COURT, ROHTAK

Reference No. 67 of 1966

*Between*THE WORKMEN AND THE MANAGEMENT OF M/S K. ENGINEERING
COMPANY, PANIPAT*Present:—*Shri Madan Lal claimant with Shri Raghbir Singh on behalf of the workmen.
Shri D.R. Aggarwal with Shri R.L. Gupta on behalf of the management.

AWARD

This is an industrial dispute between the workmen and the management of M/s K. Engineering Company, Panipat regarding the validity of retrenchment of three workmen, Sarvshri Madan Lal, Daya Ram and Anant Ram by name. This has been referred to me for adjudication on the joint application of the parties made to the Government under the provisions of sub-section (2) of section 10 of the Industrial Disputes Act, 1947. The reference has been published in the State Gazette notification No. 57-SF-III-Lab-66/2,075 dated 1st December, 1966 and the dispute referred for adjudication is in these terms :—

Whether the retrenchment of Sarvshri Madan Lal, Daya Ram and Anant Ram is legal and justified and if not to what relief they are entitled ?

Usual notices were issued to the parties and in response thereto the workmen filed their statement of claim and the respondent management filed their written statement. The workmen's case is that the retrenchment effected by the management was invalid because junior workers were retained in service and the claimants who were senior in service were retrenched and also because no seniority list was published. It was further pleaded that the retrenchment was not justified because these workmen were recalled by the management after a very short time. It was alleged that these workmen had been victimised because they were active members of the union and Shri Madan Lal was the general secretary of the union.

The management denied the allegations of the workmen and pleaded that retrenchment had been effected validly for want of sufficient work in the factory as the concern from whom they got the work had expressed their inability to provide the normal amount of work. It was alleged that the three claimants had been re-employed by the management with effect from 20th November, 1966. It was pleaded that no worker junior to the claimants had been retained in service when they were retrenched.

The only issue that arose in this case was the one contained in the order of reference and the parties produced their evidence on that issue and addressed me arguments thereon.

The case of Shri Madan Lal is very simple. Shri Daulat Ram manager of the respondent company has appeared in these proceedings as a witness on behalf of the company. He has admitted that Shri Madan Lal joined the concern on 6th August, 1963 as a welder direct and had been a welder till the date of his retrenchment, viz., 14th July, 1966. He also admits that Sarvshri Jiwan Lal, Kanwar Bhan and Krishan Lal, although joined the respondent concern as learners before Shri Madan Lal, were promoted as welders much after Shri Madan Lal had been recruited as a welder. Shri Jiwan Lal was made a welder in December, 1965 and Sarvshri Kanwar Bhan and Krishan Lal were made welders in May, 1966. It is also admitted that Sarvshri Jiwan Lal, Kanwar Bhan and Krishan Lal were not retrenched but retained in service when Shri Madan Lal was retrenched on 14th July, 1966. The learned representative of the management has argued that all these persons were doing the welding job from the respective dates of their joining the concern and the fact that Shri Madan Lal was designated as a welder from the very beginning and the others were designated as learners first and were then made welders after Madan Lal is of no consequence. This argument has no force at all. The evidence on record proves that Shri Madan Lal had learned the work of welding in another factory for about two years before joining the respondent concern as a welder direct. It also proves that Sarvshri Jiwan Lal, Kanwar Bhan and Krishan Lal had not done the work of welding before joining the respondent concern and learned that work in this concern itself. It is for that reason that they were not recruited as welders from the very beginning but were made welders subsequently. These three workmen are certainly junior to Shri Madan Lal as welders and they should have been retrenched before Madan Lal could be retrenched. Shri Madan Lal's retrenchment is invalid on this ground alone and I hold accordingly.

Shri Raghbir Singh, the learned representative of the workmen made a statement before this court to-day withdrawing the claim in respect of Shri Anant Ram. The claim of Shri Anant Ram is therefore dismissed as withdrawn.

This leaves me with the case of Shri Daya Ram only. This man had been working as a pipe seamer in the respondent concern and it is proved on the record that no pipe seamer who was junior in service to him was retained in service at the time of his retrenchment. It